

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Justin Andrew Bruntjen Esq.,

Civil No. 20-cv-1832 (MJD/HB)

Plaintiff,

v.

**REPORT AND
RECOMMENDATION**

Raffles Van Exel,
White, Wiggins & Barnes, LLP,
Ward Allen White, IV, and
Kennedy Lowell Barnes,

Defendants.

The complaint in this matter was filed and a summons was issued as to Defendant Raffles Van Exel on August 24, 2020. More than a year has elapsed since suit was filed and Van Exel has never been served. Federal Rule of Civil Procedure 4(m) provides that if a defendant has not been served within 90 days, “the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). In this case, the magistrate judge formerly assigned to this case gave Plaintiff two extensions of time to serve Van Exel, but service was not made. (*See* Apr. 27, 2021 Order at 5 [ECF No. 53]; July 6, 2021 Order at 2 [ECF No. 58].) The undersigned put Plaintiff on notice by its February 18, 2022 Order [ECF No. 100] that if proof of effective service on Van Exel was not filed by February 25, 2022, the undersigned would recommend that the action against Van Axel be dismissed without prejudice. Plaintiff has not filed proof of service and nothing indicates Van Exel has ever been served.

Accordingly, IT IS RESPECTFULLY RECOMMENDED that the above captioned action be dismissed against Defendant Raffles Van Exel for failure to effect proper service within the time required by Federal Rule of Civil Procedure 4(m).

Dated: February 28, 2022

s/Hildy Bowbeer

HILDY BOWBEER

United States Magistrate Judge